

**(1960) 11 GUJ CK 0002**  
**In the Gujarat High Court**

Rana Jatubha Chakubha

APPELLANT

Vs

P.M. Shah and Another

RESPONDENT

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**Date of Decision :** 04-11-1960

**Acts Referred:**

Saurashtra Land Reforms Act, 1951 — Section 14

**Citation :** (1961) 2 GLR 147

**Hon'ble Judges :** S.T. Desai, C.J;A.R. Bakshi, J

**Bench :** Division Bench

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## Judgement

S.T. Desai, C.J.—This petition raises a question of considerable importance and consequence to tenants who occupy dwelling houses belonging to girasdars and the question relates to construction of certain provisions in the Saurashtra Land Reforms Act, 1951. The petitioners are girasdars of the village Bhadvana in Lakhtar Taluka in Zalawad District. Opponents 3 to 6 are agriculturists who are in occupation as tenants of certain dwelling houses of the ownership of the girasdars. On 10th February 1957, the dwelling houses were let out by the girasdars to opponants 3 to 6 under a lease for a period of five years. On expiry of that lease, the girasdars filed a suit in the Civil Court at Lakhtar praying for eviction of the tenants. In their written statement, the tenants raised the contention that they were tenants of the dwelling houses within the meaning and operation of the Saurashtra Land Reforms Act and the Civil Court had no jurisdiction to entertain that suit. The trial Court decided the issue of jurisdiction against the tenants. It went into merits of the case and dismissed the suit of the girasdars. In appeal to the District Court Surendranagar the decision of the trial Court was reversed and a decree for eviction was passed in favour of the girasdars. The matter was carried in second appeal to the High Court of Bombay at Rajkot and the High Court decided that the matter should have been referred to the Mamlatdar for determination of the question whether the tenants were tenants within the meaning and ambit of the Land Reforms Act. That issue obviously could only be decided by the Mamlatdar under the Land Reforms Act. The tenants then applied to the Mamlatdar for a declaration that they were

tenants within the meaning and ambit of the Act contending that they were cultivators and artisans within the purview of the Act. The Mamlatdar decided that they were not tenants within the meaning of the Act and declined to grant the declaration sought by them. An appeal to the Deputy Collector against the decision was dismissed and they carried the matter in revision to the Revenue Tribunal. The Revenue Tribunal after construing certain provisions of the Land Reforms Act held that the Mamlatdar and the Deputy Collector were both in error. It reached the conclusion that they were tenants within the meaning and ambit of the Land Reforms Act.

2. It is against that decision of the Tribunal that the girasdars have come to mis Court on this petition. It has been urged before us by Mr. K.G. Vakharia learned advocate for the petitioners-girasdars that the Tribunal was in error in holding that a tenant of a dwelling house in the context of the Land Reforms Act need not be a tenant of the girasdars whose land he is cultivating as an agriculturist. According to Mr. Vakharia the Tribunal should have held that a tenant of a dwelling house of a girasdar can under the Act only be a person who cultivates the land of a girasdar and a tenant of any dwelling house belonging to the same girasdar. At the very outset of his arguments Mr. Vakharia sought to rely on the preamble to the Act. Now it is true that the preamble of an Act may sometimes help to understand the ambit and scope of an enactment. But it is hardly necessary to observe that it is no part of the enactment. It may at times serve as a key to open the mind of the law-maker but it cannot in any manner extend or restrict the effect and operation of any provisions in the enactment itself. For that the Court can only have regard to the provisions themselves in the enactment. Even so we have looked at the preamble for the purpose of seeing what it precisely intends to say. The preamble is as under:

WHEREAS for the improvement of land revenue administration add for ultimately putting an end to the Girasdari system it is necessary to regulate the relationship between the Girasdars and their tenants to enable the latter to become occupants of the land held by them and to provide for the payment of compensation to the Girasdars for the extinguishment of their rights:

It is hereby enacted....

Emphasis is laid by Mr. Vakharia on the words to regulate the relationship between the Girasdars and their tenants and it is urged that when we have to examine any provision of the Act relating to a tenant and the girasdar the provision must be read and understood in the relation of a girasdar and his tenant of an agricultural land and not in any other sense. Now as we have already observed the preamble cannot be permitted to restrict the operation of any section in the Act and as we shall point out later on there is no reason why Section 14 with which we are really concerned in this case of course along with certain other definition in the enactment deals with not a girasdar and his tenant of agricultural land but a girasdar and a tenant of any dwelling house belonging to him Therefore it is clear that the preamble in the present case cannot render

any assistance to us in interpreting Section 14 of the Act. That section must be read and understood in accordance with the language there used and in accordance with well-established canons of interpretation.

3. The Tribunal followed an earlier decision of its own and has quoted extensively from that decision. In its judgment it has referred to the provisions of Section 2(12) and Section 2(1) which contain definitions of land and agricultural land respectively. Says Mr. Vakharia the Tribunal has overlooked certain material definitions and has thereby failed to approach the matter in a correct manner. He has strongly relied on the definition of tenant in Section 2(30) which is as under:

tenant means an agriculturist who holds land on lease from a Girasdar or a person claiming through him and includes a person who is deemed to be a tenant under the provisions of this Act.

It will be convenient at this stage to refer to certain other definitions to which our attention has been drawn in the course of the arguments at the bar. Section 2(29) lays down:

tenancy means the relationship of Girasdar and tenant in respect of a holding.

Section 2(17) lays down:

holding means a parcel or parcels of land or an individual share thereof held by a tenant or an occupant and forming the subject of a separate tenancy or occupancy holding as the case may be.

The definitions of agriculturist land and agricultural land are as under: agriculturist means a person who cultivates the land personally, land means any agricultural land bid land or cultivable waste

agricultural land means any land including wells which is used for the purpose agriculture and includes

(a) sites of farm buildings appurtenant to land used for agricultural purposes; and

(b) sites of dwelling houses and wadas occupied by agriculturists agricultural labourers or artisans and land appurtenant to such dwelling houses.

4. Founded on the language of the definition of tenant in the definition clause the argument on behalf of the petitioners is that a tenant of a dwelling house must in the first place be an agriculturist and he must hold land or lease from a girasdar. The reliance is placed on the definition of land the meaning of which includes any agricultural land. Then reference is made to the definition of agricultural land which we have already set out above. The argument here is that Clause (b) of Sub-section (1) of Section 2 rules that a dwelling house can for the purpose of the Act be regarded as agricultural land and therefore land. And reverting to Section 2(30) the argument has proceeded that a tenant of a dwelling house in the context of Section 2(30) must mean an agriculturist who holds land and dwelling house on lease from the same girasdar. In our opinion this submission is

not well-founded.

5. In order to appreciate the contention raised on behalf of the petitioners it is necessary to bear in mind that after disposal of the second appeal it was the petitioners who had applied to the Mamlatdar and contended in their application that it should be declared that they were cultivators and artisans within the ambit of the Land Reforms Act. In that application they prayed that it should be held that they are cultivators and artisans and the dwelling houses in dispute are in their possession in their status of cultivators and artisans. The relevant section in the Act and on which as we shall presently point out stand is taken by the tenants-opponents is Section 14 of the Land Reforms Act the provisions of which may conveniently be set out at this stage:

14 (1) If in any village tenant is in occupation of a dwelling-house built on a site belonging to his Girasdar such tenant shall not be evicted from such dwelling house or the land immediately appurtenant thereto and necessary for its enjoyment unless:

(a) the Girasdar proves that the dwelling house was not built at the expense of such tenant or his predecessor-in-title and

(b) such tenant makes a default in payment of rent if any which he has been paying for the use and occupation of such house.

(2) The provisions of Sub-section (1) shall not apply to a dwelling house which is situated on any land used for the purposes of agriculture in respect of which the tenancy has been terminated under Sub-section (1) of Section 12.

Now the argument of Mr. Vakharia on this aspect of the case is that Section 14 has no bearing on the controversy before us. We do not think that he is right in that submission.

6. The contention urged on behalf of the tenants by Mr. M.U. Shah is that there is nothing in the definition clauses relied on by Mr. Vakharia which requires that a restricted meaning should be given to the expression tenant as contended on behalf of the petitioners-girasdars. Considerable reliance is placed by Mr. Shah on Section 14 of the Act. The argument is that giving of a restricted meaning to the expression tenant would create an anomalous position because the provisions of that section apply not only to a tenant but have become applicable by a notification u/s 16. made by the Government to the case of dwelling houses occupied by the agricultural labourers and artisans. Section 16 is as under:

16 The Government may by notification in the Official Gazette direct that the provisions of Section 14 or of Section 34 shall apply mutatis mutandis to the dwelling houses and sites thereof occupied by agricultural labourers or artisans in any particular areas specified in the notification.

7. The argument of Mr. Shah ran that an agricultural labourer who occupies as a tenant premises owned by a girasdar need not be a tenant of the girasdar in the

sense of a person cultivating agricultural land. In the case of an artisan it is said there would be no question of cultivating agricultural land. It is said that Section 14 must be so interpreted that it would bring about a harmonious result when applied to the case of a tenant to the case of an agricultural labourer and to the case of an artisan. There is in our opinion substance in the argument urged on behalf of the tenants. As to the initial words of Section 14 if in any village a tenant is in occupation of a dwelling house built on the site belonging to his Girasdar it is urged that the words his Girasdar do not mean the Girasdar of whose agricultural land the tenant of the dwelling houses is also a tenant. Says Mr. Shah it is not necessary that to invite the application of Section 14 it should be necessary that the tenant who occupies a dwelling house belonging to a girasdar as a tenant should also be a tenant of the same girasdar or agricultural land. The two tenancies it is said are separate and the Act does not mix them up or regard them as one tenancy. A tenancy of a dwelling house belonging to a girasdar is a matter apart and Section 14 in its application would cover the case of a tenant of a dwelling house who is also a tenant of agricultural lands regardless of the ownership of those agricultural lands. The section would apply the moment it is established that the tenant whose occupation it is to cultivate agricultural land is the tenant of a dwelling house belonging to a girasdar. In fairness to Mr. Vakharia we may mention here that his alternative submission is that Section 14 if it had bearing on the present case can only apply if the tenant who claims protection under that section is a tenant in respect of a dwelling house as tenant of the girasdar who is the owner of the dwelling house as well as agricultural lands which agricultural lands are cultivated by the tenant.

8. The question that arises for our determination really lies in a narrow compass. We have to ascertain the ambit and effect of Section 14 and apply the definition of tenant in Section 2(30). Of course as we have already mentioned we have to bear in mind other relevant definitions in the Act. We are unable to read anything in the definition of tenant in Section 2(30) which would require us to exclude a tenancy of a dwelling house of the nature before us. The definition properly analysed only speaks of a relationship of a tenant and a landlord. The tenant must be an agriculturist and the landlord must be a girasdar. The definition speaks of land and in the context of an agriculturist it would be agricultural land and there the definition of agricultural land also requires to be considered. The meaning of the expression agricultural land is not confined to land used for agricultural purposes but the expression can include the site of a farm building appurtenant to any land used for agricultural purposes. That is what is laid down in Clause (a) of Section 2(1). Then Clause (b) which is the vital clause rules that the expression agricultural land includes sites of dwelling houses and wadas occupied by agriculturists agricultural labourers or artisans and land appurtenant to such dwelling houses. It is abundantly clear that in this definition clause the legislature has kept in mind dwelling houses owned by girasdars which may be in the occupation of agriculturists agricultural labourers and also artisans. If in applying the definition of tenant in Section 2(30) we have to bear in mind the

meaning attributable to agricultural land and in our opinion that must be 50 it does follow that the legislature intended that by operation of that definition and a notification u/s 16 Section 14 would become applicable to any tenant of agricultural land as also to agricultural labourers and artisans. In our judgment when interpreting Section 14 we have to bear in mind the definition of the expression agricultural land and particularly Clause (b) and that definition relates to dwelling houses. Be it noted that whereas Clause (a) of the definition of a agricultural land speaks only of farm buildings appurtenant to the land used for agricultural purposes there is no such reference to land used for agricultural purposes when the law-maker includes sites of dwelling houses within the concept and ambit of agricultural land.

9. At first blush the argument of Mr. Vakharia that the initial words of Section 14 which speak of occupation by a tenant of a dwelling house belonging to his girasdar mean that the girasdar should be the girasdar of a tenant who is cultivating agricultural land of the girasdar may seem attractive. But when we examine the initial words contextually and in their proper collocation and along with the definitions of agricultural land and tenant which we have already discussed it would mean that the words his Girasdar do not ant cannot mean the girasdar whose agricultural land the tenant is cultivating. The matter becomes easy of solution when it is borne in mind that Section 14 relates to bar to eviction from dwelling houses. From its very nature a provision of this character must speak of the tenant and his landlord. The Act it is also necessary to bear in mind relates only to land owned by girasdars. Of that there is no doubt and there can be no dispute. It is in laying down that the dwelling house from which a person is not to be evicted except in certain cases that the law-maker had to refer to the tenant and the landlord and if this be the correct position and we have no doubt that it is the expression his Girasdar does not present any difficulty. After speaking of a tenant who is in occupation of a dwelling house the legislature had to refer to the landlord of the same and it is in so referring to the landlord and tenant that the expression his Girasdar has been used. The way we read this expression his Girasdar is that it only means his landlord who must be a girasdar. If the landlord is not a girasdar then indubitably Section 14 can have no operation. We agree that mere fact that the interpretation urged by the girasdars may result in some anomaly is not a around which would control the interpretation of any provisions of law. At the same time as far as possible the Court does strive to see that the meaning it attributes to any provision of law is such as avoids repugnance and is in harmony with other related provisions of the enactment. So considered it seems to us that the interpretation which we give to Section 14 will also result in a harmonious meaning and effect being given to the section. The position of a tenant of an agricultural land and an agricultural labourer and an artisan will be the same. For all these reasons we are of the opinion that the Revenue Tribunal was right in the conclusion reached by it.

10. In the course of the arguments an apprehension was expressed by Mr. Vakharia that when question of compensation arises in respect of the dwelling

houses which are in the occupation of the tenants the tenants might claim compensation under the relevant provisions of the Act. Mr. M.U. Shah strongly urged before us that a tenant who is in occupation of a dwelling house of a girasdar of the nature before us that is one who does not cultivate the land belonging to make any claim for compensation under the Act. Mr. M.U. Shah has also stated before us that the opponents-tenants cannot make any claim acquisition u/s 28 nor can they in respect of the houses a tenant under that section. We have carefully considered the position and it seems to us that a person who claims benefit of Section 14 as do the tenants before us cannot claim any compensation under any provision of the Land Reforms Act.

In the result the petition fails and will be discharged. There will be no order for costs.